



Office of the Governor of Guahan

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

2010 JUL 23 AM 11:01 EPM

JUL 22 2010

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guahan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 238-30 (COR) "AN ACT TO ADD A NEW §3133 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE DEPARTMENT OF EDUCATION FINANCIAL SUPERVISORY COMMISSION; AND TO AMEND §3112 OF ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED", which I signed into law on July 16, 2010 as Public Law 30-164.

Sinseru yan Magahet,

MICHAEL W. CRUZ, M.D.
I Maga'lâhen Guahan para pa'go
Acting Governor of Guahan

Attachment: copy of Bill

30-10-0611

Office of the Speaker
Judith T. Won Pat, Ed. D.

Date: 7/22/10
Time: 4:42P
Received by: [Signature]

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

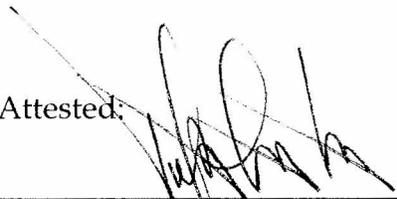
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 238-30 (COR), "AN ACT TO ADD A NEW §3133 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE DEPARTMENT OF EDUCATION FINANCIAL SUPERVISORY COMMISSION; AND TO AMEND §3112 OF ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED ", was on the 2nd day of July, 2010, duly and regularly passed.



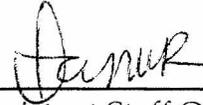
Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 6th day of July, 2010, at
5 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date: JUL 16 2010

Public Law No. P.L. 30-164

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 238-30 (COR)

As amended on the Floor.

Introduced by:

v. c. pangelinan
Judith T. Won Pat, Ed.D.
T. C. Ada
F. B. Aguon, Jr.
V. Anthony Ada
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
Telo Taitague
Ray Tenorio

AN ACT TO *ADD* A NEW §3133 TO ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF THE DEPARTMENT OF EDUCATION FINANCIAL SUPERVISORY COMMISSION; AND TO *AMEND* §3112 OF ARTICLE 1 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 the Guam Department of Education (GDOE) is allocated approximately one-third
4 of the annual government of Guam budget. The GDOE has experienced adversity

1 at the highest level of leadership due to high turnover rates of key positions, such
2 as the Superintendent and Deputy Superintendent of Finance. Such adversity has
3 contributed to recent fiscal mismanagement, resulting in the closure of public
4 schools and in certain instances, caused adverse impact on the continuity,
5 efficiency and effectiveness of delivering the highest quality of instructional
6 services for Guam’s public school students.

7 *I Liheslaturan Guåhan* further finds that to ensure public school children of
8 Guam are afforded their educational entitlement without adverse delays due to
9 financial *or* administrative negligence, it is necessary to create the Guam
10 Department of Education Financial Supervisory Commission (EFSC) as an
11 independent body to assist the GDOE and the Guam Education Policy Board
12 (GEPB) with the task of monitoring and managing all public education financial
13 resources.

14 The EFSC’s primary role is to monitor the financial health of the GDOE by
15 developing and supervising a financial status designation of GDOE finances. The
16 main purpose of EFSC is to identify in advance any signs of financial distress that
17 may put the operations of the public school system in danger of operational deficits
18 and to advise the GDOE and GEPB to implement corrective measures.

19 It is also imperative that the interaction of the federal and local programs be
20 compatible to deliver the mandates of the “Every Child Is Entitled to an Adequate
21 Education Act”. Federal grants must be reviewed, accepted, and utilized by the
22 GDOE as a means to accomplish this goal.

23 *I Liheslaturan Guåhan* further finds that the EFSC is in a position to
24 effectively review the various federal programs of which GDOE is currently
25 participating and make recommendations to both the Superintendent of Education
26 and the GEPB on financial integration and administration of both funding sources
27 into a twelve (12)-month Expenditure Operations Plan.

1 In an effort to establish and maintain a culture of financial leadership and
2 financial stability in the island’s only public educational system, it is the intent of *I*
3 *Liheslaturan Guåhan* to remove the constant threat of school closures, restore
4 public confidence in the system, provide technical assistance and any other
5 financial supervisory assistance helpful to the GDOE through the passage of this
6 Act.

7 It is further the intent of *I Liheslaturan Guåhan* to finally lift the “high risk
8 grantee” designation, which had been placed on GDOE since September 2003. In
9 order to achieve this, the Superintendent of Education and the GEPB must avail
10 themselves of the management and financial experience offered by the members of
11 EFSC.

12 **Section 2.** A new §3133 of Article 1, Chapter 3 of Title 17, Guam Code
13 Annotated, is hereby *added* to read:

14 **“§3133. Establishment and Composition Guam Department of**
15 **Education Financial Supervisory Commission.**

16 (a) The Guam Department of Education Financial Supervisory
17 Commission (EFSC) *shall* consist of five (5) regular voting members and
18 one (1) alternate member, who *shall* be allowed to cast a vote *only* in the
19 event a regular voting member is absent. The EFSC *shall* be comprised of
20 the following members:

21 (1) The Director of the Department of Administration, *or*
22 designated representative, who *shall* be member of the Senior
23 Management Staff;

24 (2) The Director of the Bureau of Budget and Management
25 Research, *or* designated representative, who *shall* be member of the
26 Senior Management Staff;

1 (3) The Director of the Office of Finance and Budget, *or*
2 designated representative;

3 (4) The Public Auditor, *or* designated representative;

4 (5) A parent of a child currently enrolled in a public school,
5 appointed by the Chairperson of the Committee on Education of *I*
6 *Liheslaturan Guåhan*, with *at least* five (5) years experience in the
7 public or private sector in the management of business *or* financial
8 expertise, public accounting, *or* similar professional activity;

9 (6) The General Accounting Supervisor of the Department of
10 Administration (Alternate);

11 (7) The Superintendent of Education *shall* serve as the
12 Executive Secretary of the EFSC in an ex-officio, nonvoting capacity;
13 and

14 (8) The Deputy Superintendent of Finance of GDOE *shall*
15 serve as an ex-officio member in a nonvoting capacity.

16 (b) **EFSC Structure:**

17 (1) The Director of the Bureau of Budget and Management
18 Research *shall* serve as the Chairperson of the EFSC;

19 (2) The Director of the Office of Finance and Budget *shall*
20 serve as the Vice Chairperson;

21 (3) The EFSC *shall* meet *at least* once per month using a
22 generally accepted set of parliamentary procedures to govern
23 meetings;

24 (4) Three (3) members *shall* constitute a quorum for the
25 transaction of any EFSC business. In the absence of a quorum,
26 all meetings *shall* be cancelled and rescheduled within three (3)
27 working days of the cancelled meeting;

1 (5) Failure of the EFSC to meet in any month *shall* result in
2 a Two Hundred Fifty Dollars (\$250) fine for each member,
3 which *shall* be deposited into the GDOE Interscholastic Sports
4 Program.

5 **(c) EFSC Scope of Authority, Duties and Responsibilities Granted.**

6 The scope of authority, duties, and responsibilities granted in this Subsection
7 *shall* be for the purpose of organizing and assembling government of Guam
8 resources to:

9 (1) make recommendations on policies and practices related to the
10 presentation and preparation of the operating budget request;

11 (2) make recommendations on budget request priorities;

12 (3) review and approve a fiscal year twelve (12)-month
13 Expenditure Operations Plan based on the appropriation of local funds and
14 expected funds from other sources by September 25 for the next Fiscal Year;

15 (4) review and approve a fiscal year twelve (12)-month Human
16 Resources Management Plan by September 25 for the next Fiscal Year,
17 inclusive of merit increases, promotions and hiring that directly supports the
18 plan outlined in (3) of this Subsection;

19 (5) review GDOE internal hiring policies, procedures and controls
20 and make recommendations to the Superintendent of Education;

21 (6) develop financial performance indicators that produce a
22 monthly financial status designation as outlined in Subsection (d) of this
23 Section;

24 (7) review GDOE financial reports for conformity with annual
25 budget objectives;

1 (8) monitor expenditures that materially exceed (or will exceed on
2 an annualized basis) the approved budget amount for any given expense
3 category;

4 (9) review and approve all contracts/expenditures in excess of One
5 Million Dollars (\$1,000,000) prior to issuance of purchase orders and bid
6 awards to verify fund expenditures conform to the plan outlined in (3) of this
7 Subsection;

8 (10) monitor all contracts and renewal dates for food service, school
9 maintenance, office reproduction equipment, solid waste disposal and
10 telecommunication;

11 (11) develop a needs assessment of the GDOE Accounting
12 Department and recommend a training plan to the Superintendent of
13 Education;

14 (12) review GDOE internal accounting procedures and controls and
15 make recommendations to the Superintendent of Education; and

16 (13) review all information technology purchases and upgrades
17 related to the financial management of GDOE and provide recommendations
18 to the Superintendent of Education.

19 (d) **Financial Status Designations.**

20 (1) **CODE A** means *Stable*, indicating that the GDOE has positive
21 variance reports in all budgeted expense categories at the time of reporting;

22 (2) **CODE B** means *Warning*, indicating that the GDOE has a
23 negative variance report exceeding ten percent (10%) of the year-to-date
24 budgeted amount in an expense category *or* five percent (5%) in aggregate at
25 the time of reporting;

26 (3) **CODE C** means *Watch*, indicating that the GDOE has a
27 negative variance report exceeding two percent (2%) of the approved budget

1 amount when combining year-to-date actual and annualized projections at
2 the time of reporting; and

3 (4) **CODE RED** indicates *Emergency*, whereby there is a failure to
4 implement a corrective financial recovery plan within fifteen (15) working
5 days of submission to EFSC as outlined in Subsection (e)(3) of this Section.
6 An emergency may also be declared by a unanimous vote of all EFSC
7 members should the GDOE and GEPB fail to submit a Corrective Financial
8 Recovery Plan that is acceptable to address conditions which caused the
9 financial status *Watch* designation.

10 (e) **Financial Status Designations; Actions.**

11 (1) *CODE A-Stable.* No action required;

12 (2) *CODE B-Warning.* The Superintendent of Education, in
13 conjunction with the Deputy Superintendent of Finance, *shall* submit an
14 explanation of variance within five (5) working days of an EFSC *Warning* to
15 the GEPB and EFSC that explains each expenditure category above the
16 approved budget amount as outlined in Subsection (c)(3) of this Section;

17 (3) *CODE C-Watch.* The Superintendent of Education, in
18 conjunction with the Deputy Superintendent of Finance, *shall* submit a
19 Corrective Financial Recovery Plan to eliminate *Watch* conditions within
20 twenty (20) working days of an EFSC-issued *Watch* to the GEPB. The
21 GEPB *shall* review, modify and approve by resolution the corrective
22 Financial Recovery Plan and submit it to the EFSC within fifteen (15)
23 working days of receipt from the Superintendent of Education; and

24 (4) *CODE RED-Emergency.* Under an emergency declaration,
25 EFSC may assume all *or* part of the decision making powers of the
26 Superintendent of Education and the GEPB until a corrective financial

1 recovery plan is developed, implemented and successful in alleviating the
2 conditions which caused the financial status *Watch* designation.”

3 **Section 3.** §3112 of Article 1 of Chapter 3 of Title 17, Guam Code
4 Annotated (“**Same: Duties and Responsibilities**”), is hereby *amended* to read:

5 “(a) The duties and responsibilities of the Guam Education Policy
6 Board *shall* include, *unless* prohibited by Subsection (b) hereof, the
7 following:

8 (1) establish curriculum goals and policy;

9 (2) establish student performance standards and a
10 mechanism for standardized assessment of each student based upon
11 the adopted standards;

12 (3) establish policy for interscholastic sports;

13 (4) establish and approve a textbook list;

14 (5) establish student discipline policy;

15 (6) establish a school calendar;

16 (7) establish graduation standards;

17 (8) periodically review established policies for refinement
18 and improvement;

19 (9) serve as Guam’s State Education Policy/Governing
20 Board for federal programs where such a Board is required by Federal
21 Law to include, but *not be limited to*, the Head Start Program; the
22 Guam Education Policy Board *shall* have *no* involvement with federal
23 programs that *do not* require a governing Board *except* that all federal
24 grant applications must be presented to the Board *at least* fifteen (15)
25 days prior to final transmittal to the federal government. In the event
26 of an emergency, the Board may reduce *or* waive said fifteen (15) day
27 presentation requirement;

1 (10) make recommendations to *I Maga'lahren Guåhan* and *I*
2 *Liheslaturan Guåhan* for changes, additions *or* deletions to public
3 law;

4 (11) approve *or* revoke a school's decentralization status for
5 purposes of school-based management;

6 (12) act as the approving authority on behalf of the GDOE for
7 collective bargaining agreements;

8 (13) establish rates and fees necessary for programs,
9 including, but *not* limited to, the school lunch program;

10 (14) perform other duties and responsibilities as required by
11 public law to provide an adequate public educational system;

12 (15) The University of Guam *shall* adopt and implement a
13 professional training development program for the members of the
14 Board. The Guam Department of Education (GDOE) *shall* pay the
15 cost of the professional training and development program from the
16 appropriations made to the DOE Operations Fund. This professional
17 training and development program *shall* be mandatory for Board
18 members to complete within thirty (30) days of taking office for the
19 purpose of improving, expanding and refining their individual and
20 collective policy making skills. Some specific areas that will be
21 covered by such professional training and development program *shall*
22 include, but *not* be limited to:

23 (A) Board Operations;

24 (B) Board Skills and Service;

25 (C) Review of the Guam Code Annotated, and other
26 laws pertaining to GDOE;

27 (D) Roberts Rules of Order;

1 (E) Guam Department of Education/government of
2 Guam budgeting procedures and guidelines;

3 (F) Difference(s) between policy making and
4 micromanagement of the affairs of GDOE; and

5 (G) Review of specific areas of existing federal
6 programs where the Board has purview.

7 (16) Privatization of GDOE services *or* operations must be
8 authorized by the Board and executed by:

9 (A) directing the Superintendent of Education to issue
10 a Request for Proposal (RFP) *or* an Invitation for Bid (IFB) for
11 the privatization of services within the Guam Department of
12 Education, and implementing the privatization of services
13 within the budgeted allocation level approved by the Board;

14 (B) the issuance of an RFP *or* an IFS and the award
15 thereof *shall* be in conformance with all applicable procurement
16 laws and regulations of Guam;

17 (C) the disposition of any employee of the GDOE,
18 affected or displaced by such action, *shall* follow all applicable
19 laws and regulations of Guam; and

20 (D) For all Guam Department of Education privatized
21 food services, cafeterias, *or* cafeteria services, contractors
22 operating GDOE cafeterias and food services *shall* comply with
23 §5001(e), Title 5, Guam Code Annotated and Chapter 68 of
24 Title 5, Guam Code Annotated, relative to the procurement of
25 local products, in place and stead of the Guam Department of
26 Education. The Guam Department of Education *shall* require

1 compliance with these provisions as part of its contracts for
2 privatization subsequent to the enactment of this Subsection;

3 (17) Review and approve by Board resolution the spending
4 priorities as outlined in the fiscal year budget for the GDOE before
5 submission to *I Liheslaturan Guåhan* as required in §3121 of Chapter
6 3, Title 17, Guam Code Annotated.

7 (18) Review and approve a fiscal year twelve (12)-month
8 Expenditure Operations Plan based on the appropriation of local funds
9 and expected funds from other sources by September 15 for the next
10 fiscal year consistent with appropriations made to GDOE by law for
11 that fiscal year; and

12 (19) Review and approve a fiscal year twelve (12)-month
13 Human Resources Management Plan by September 15 for the next
14 fiscal year, inclusive of merit increases, promotions and hiring that
15 directly supports the Plan outlined in (18) of this Subsection.

16 (b) The Board *shall not* collectively *or* individually:

17 (1) exert influence in the hiring, transfer, discipline *or* termination
18 of any employee of the GDOE, *unless* expressly authorized by public law;

19 (2) interfere in *or* micro-manage the affairs of the GDOE *or*
20 schools within the GDOE;

21 (3) involve itself with student discipline cases, *unless* expressly
22 authorized by public law, and *only* to the extent authorized by public law;
23 and

24 (4) involve itself in operational matters related to the
25 administration of federal funds and federal grants.

26 Any Board member *shall* report to *I Liheslaturan Guåhan* any potential *or*
27 alleged violation of this Subsection (b).”

1 **Section 4. Effective Date.** This Act *shall* become effective upon
2 enactment.

3 **Section 5. Severability.** *If* any provisions of this Act or the application
4 thereof to any person or circumstance is held invalid, such invalidity shall *not*
5 affect any other provision or application of this Act which can be given effect
6 without the invalid provision or application, and to this end the provisions of this
7 Act are severable.



OFFICE OF THE SPEAKER
I MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

June 22, 2010

The Honorable Rory J. Respicio
Chairperson, Committee on Rules
I Mina' Trenta Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

2010 JUN 29 AM 11:25

The Committee on Education, to which "**Bill No. 238-30 (COR) – v.c. pangelinan - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission**" was referred, wishes to report its findings and recommendations.

Transmitted herewith for your consideration is our committee report on the above subject matter.

The voting record is as follows:

 5 TO PASS
 - NOT TO PASS
 2 TO REPORT OUT ONLY
 - ABSTAIN
 - TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached. Thank you and Si Yu'os ma'ase.

Judith T. Won Pat, Ed.D.
Chairwoman
Committee on Education

Attachments



I MINA'TRENTA NA LIHESLATURAN GUÅHAN

COMMITTEE ON EDUCATION

SPEAKER JUDITH T. WON PAT, Ed.D.

CHAIRWOMAN

COMMITTEE REPORT

ON

Bill No. 238-30 (COR) – v.c. pangelinan - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.



OFFICE OF THE SPEAKER
I MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

June 22, 2010

MEMORANDUM

TO: Committee Members

FROM: Chairwoman
Committee on Education

RE: **"Bill No. 238-30 (COR) – v.c. pangelinan** - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission

Transmitted herewith for your information and action is the report on **"Bill No. 238-30 (COR) – v.c. pangelinan** - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission."

Please take the appropriate action on the voting sheet. Your attention and cooperation on this matter is greatly appreciated.

Should you have questions regarding the report or accompanying documents, please do not hesitate to contact me.

Senseramente,

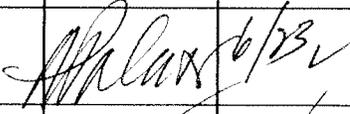
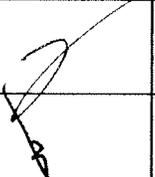
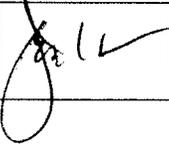
Judith T. Won Pat, Ed.D.

Attachments

COMMITTEE VOTING SHEET

COMMITTEE ON EDUCATION

Bill No. 238-30 (COR) – v.c. pangelinan - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.

	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT OF COMMITTEE	ABSTAIN	PLACE IN INACTIVE FILE
Judith T. Won Pat, Ed.D., Chairwoman		✓				
Judith P. Guthertz, Vice Chairwoman						
Adolpho Palacios, Sr.						
Vicente C. Pangelinan		✓				
Tina R. Muña-Barnes		✓				
Thomas C. Ada		✓				
Edward J. B. Calvo						
Ray S. Tenorio						
Frank F. Blas, Jr.				✓		
James V. Espaldon				✓		

I. OVERVIEW

The Committee on Education held a public hearing on Wednesday, October 21, 2009 at 9:00 a.m. on “**Bill No. 238-30 (COR) – v.c. pangelinan** - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.”

Notices for the public hearings were disseminated to all local media via facsimile in accordance with the requirements of the Open Government Law and are attached herein.

Senators present at the public hearing were:

Speaker Judith T. Won Pat, Committee Chairwoman
Senator Vicente “ben” Pangelinan
Senator Telo Taitague

II. SUMMARY OF TESTIMONY

-**Senator Pangelinan**, who authored Bill 238-30, briefly explained the intent and structure of the legislation prior to the Committee receiving testimony on the bill.

-**Dr. Nerissa B. Underwood**, the Superintendent of the Guam Department of Education, appeared before the Committee but yielded to her Deputy Superintendent, Ms. Taling Taitano, to give the official stance of the Guam Department of Education.

-**Ms. Taling Taitano**, the Deputy Superintendent for Finance and Administrative Services at the Guam Department of Education, provided oral testimony stating a qualified approval of Bill 238-30.

Ms. Taitano explained to the Committee that there is an effort to negotiate an MOU with several government of Guam agencies that would assist the education department with their finances. It is because of this MOU that she is asking for the bill to be held in abeyance to give some time for the MOU to work.

DISCUSSION

- **Senator Pangelinan** began the discussion by asking what would be the difference between this legislation and the MOU that she had outlined in her testimony.

- **Ms. Taitano** responded that while there doesn't seem to be significant differences, the MOU should be given a chance to work first prior to enacting this legislation. However, Ms. Taitano conceded the point that the proposed Financial Supervisory Commission has similar goals to that of the MOU.

- **Superintendent Underwood** explained to the Committee that perhaps a period of time (six months) can be given to allow the MOU to work prior to the legislature discussing and perhaps passing the legislation into law.

- **Senator Pangelinan** explained that this legislation goes beyond the MOU and institutionalize and permanize the goals that are set in the MOU which he believes would be more beneficial to the Department of Education than an MOU that is not permanent.

- With no other discussion on the bill, **Chairwoman Won Pat** concluded the hearing and adjourned the Committee.

COMMITTEE DISCUSSION

The author of Bill 238-30, Senator Pangelinan, requested that the Committee report out the bill now that the MOU had been given a reasonable amount of time to function. The Committee has noted that the six month time frame requested by the Superintendent at the hearing date has now expired and agrees with Senator Pangelinan to report out the bill for discussion and debate by the entire body of the Guam Legislature.

III. FINDINGS AND RECOMMENDATION

The Committee on Education to which Bill 238-30 (COR) was referred, finds support for the passage of the bill and hereby submit its findings and recommendations to *I Mina' Trenta Na Liheslaturan Guahan* **TO DO PASS** Bill 238-30(COR).

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) REGULAR SESSION

Bill No. 238-30(COR)

Introduced by:

v.c. pangelinan

2009 OCT -1 PM 2:51 MCE

AN ACT TO ADD A NEW SECTION 3133 OF 17
GCA, CHAPTER 3 RELATIVE TO THE CREATION
OF THE DEPARTMENT OF EDUCATION
FINANCIAL SUPERVISORY COMMISSION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
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3 annual government of Guam budget. The GDOE has experienced adversity at the highest
4 level of leadership due to high turnover rates of key positions such as the Superintendent
5 and Deputy Superintendent of Finance. Such adversity has contributed to recent fiscal
6 mismanagement resulting in the closure of public schools and in certain instances, caused
7 adverse impact on the continuity, efficiency and effectiveness of delivering the highest
8 quality of instructional services for Guam's public school students.

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10 In an effort to establish and maintain a culture of financial leadership and
11 financial stability in the island’s only public educational system, it is the intent of *I*
12 *Liheslaturan Guahan* to remove the constant threat of school closures, restore public
13 confidence in the system, provide technical assistance and any other financial supervisory
14 assistance helpful to the GDOE through the passage of this Act.

15 It is further the intent of *I Liheslaturan* Guahan to finally lift the “high risk
16 grantee” designation which had been placed on GDOE since September, 2003. In order
17 to achieve this, the Superintendent of Education and the GEPB must avail themselves of
18 the management and financial experience offered by the members of EFSC.

19 **Section 2. A new Section 3133 of 17 GCA, Chapter 3 is hereby added to**
20 **read:**

21 “§ 3133. Establishment and Composition Guam Department of Education
22 Financial Supervisory Commission.

23 a). The Guam Department of Education Financial Supervisory Commission
24 (EFSC) shall consist of five (5) regular voting members and one (1) alternate member
25 who shall be allowed to cast a vote only in the event a regular voting member is absent.

26 The EFSC shall be comprised of the following members:

- 27 1) The Director of the Department of Administration or designated
28 representative who shall be member of the Senior Management Staff;
- 29 2) The Director of the Bureau of Budget, Management and Research
30 or designated representative who shall be member of the Senior
31 Management Staff;

- 1 3) The Director of the Office of Finance and Budget or designated
2 representative;
- 3 4) The Public Auditor or designated representative;
- 4 5) A parent of a child currently enrolled in a public school appointed
5 by the Chairperson of the Committee on Education of the Guam
6 Legislature with at least five (5) years experience in the public or private
7 sector in the management of business or financial expertise, public
8 accounting, or similar professional activity;
- 9 6) General Accounting Supervisor of the Department of
10 Administration (Alternate);
- 11 7) The Superintendent of Education shall serve as the Executive
12 Secretary of the EFSC in an exofficio, nonvoting capacity;
- 13 8) The Deputy Superintendent of Finance of GDOE shall serve as an
14 exofficio member in a nonvoting capacity.

15 b). EFSC Structure

- 16 1) The Director of the Bureau of Budget and Management
17 Research shall serve as Chairperson for the EFSC;
- 18 2) The Director of the Office of Finance and Budget shall
19 serve as the Vice Chairperson;
- 20 3) The EFSC shall meet at least once per month using a
21 generally accepted set of parliamentary procedures to
22 govern meetings;
- 23 4) Three members (3) shall constitute a quorum for the
24 transaction of any EFSC business. In the absence of a
25 quorum, all meetings shall be cancelled and rescheduled
26 within three (3) working days of the cancelled meeting;
- 27 5) Failure of the EFSC to meet in any month shall result in a
28 Two-Hundred and Fifty Dollar (\$250.00) fine for each
29 member, which shall be deposited into the GDOE
30 Interscholastic Sports Program.

1 **Section 3. EFSC Scope of Authority, Duties and Responsibilities**

2 **Granted.** The scope of authority, duties, and responsibilities granted in this section shall
3 be for the purpose of organizing and assembling government of Guam resources to:

- 4 a) Make recommendations on policies and practices related to the presentation
5 and preparation of the operating budget request;
- 6 b) Make recommendations on budget request priorities;
- 7 c) Review and approve a fiscal year twelve month expenditure operations plan
8 based on the appropriation of local funds and expected funds from other
9 sources by September 25 for the next fiscal year;
- 10 d) Review and approve a fiscal year twelve month human resources management
11 plan by September 25 for the next fiscal year, inclusive of merit increases,
12 promotions and hiring that directly supports the plan outlined in (c) of this
13 section;
- 14 e) Review GDOE internal hiring policies, procedures and controls and make
15 recommendations to the Superintendent of Education;
- 16 f) Develop financial performance indicators that produce a monthly financial
17 status designation as outlined in Section 4 of this Act;
- 18 g) Review GDOE financial reports for conformity with annual budget objectives;
- 19 h) Monitor expenditures that materially exceed (or will exceed on an annualized
20 basis) the approved budget amount for any given expense category;
- 21 i) Review and approve all contracts/expenditures in excess of One Million
22 Dollars (\$1,000,000) prior to issuance of purchase orders and bid awards to
23 verify fund expenditures conform to the plan outlined in (c) of this section;
- 24 j) Monitor all contracts and renewal dates for food service, school maintenance,
25 office reproduction equipment, solid waste disposal and telecommunication;
- 26 k) Develop a needs assessment of the GDOE accounting department and
27 recommend a training plan to the Superintendent of Education;
- 28 l) Review GDOE internal accounting procedures and controls and make
29 recommendations to the Superintendent of Education;

1 m) Review all information technology purchases and upgrades related to the
2 financial management of GDOE and provide recommendations to the
3 Superintendent of Education.

4 **Section 4. Financial Status Designations.**

- 5 a) **CODE “A”** means *Stable* indicating that the GDOE has positive variance
6 reports in all budgeted expense categories at the time of reporting;
- 7 b) **CODE “B”** means *Warning* indicating that the GDOE has a negative
8 variance report exceeding ten percent (10%) of the year-to-date budgeted
9 amount in an expense category or five percent (5%) in aggregate at the time
10 of reporting;
- 11 c) **CODE “C”** means *Watch* indicating that the GDOE has a negative variance
12 report exceeding two percent (2%) of the approved budget amount when
13 combining year-to-date actual and annualized projections at the time of
14 reporting;
- 15 d) **CODE “RED”** indicating *Emergency* whereby there is a failure to
16 implement a corrective financial recovery plan within fifteen (15) working
17 days of submission to EFSC as outlined in Section 5(c) of this Act. An
18 emergency may also be declared by a unanimous vote of all EFSC members
19 should the GDOE and GEPB fail to submit a corrective financial recovery
20 plan that is acceptable to address conditions which caused the financial status
21 *watch* designation.

22 **Section 5. Financial Status Designations Actions**

- 23 a) **CODE A-*Stable***. No action required;
- 24 b) **CODE B-*Warning***. Superintendent of Education in conjunction with the
25 Deputy Superintendent of Finance *shall* submit an explanation of variance
26 within five (5) working days of an EFSC *Warning* to the GEPB and EFSC
27 that explains each expenditure category above the approved budget amount
28 as outlined in Section 3(c) of this act;
- 29 c) **CODE C-*Watch***. Superintendent of Education in conjunction with the
30 Deputy Superintendent of Finance *shall* submit a corrective financial
31 recovery plan to eliminate watch conditions within twenty (20) working days

1 of an EFSC issued *Watch* to the GEPB. The GEPB *shall* review, modify and
2 approve by resolution the corrective financial recovery plan and submit it to
3 EFSC within fifteen (15) working days of receipt from the Superintendent of
4 Education;

- 5 d) CODE RED-*Emergency*. Under an emergency declaration, EFSC may
6 assume all or part of the decision making powers of the Superintendent of
7 Education and the GEPB until a corrective financial recovery plan is
8 developed, implemented and successful in alleviating the conditions which
9 caused the financial status *watch* designation.”

10 **Section 6. 17 GCA § 3112. "Same: Duties and Responsibilities", is**
11 **hereby amended to read:**

12 “(a) The duties and responsibilities of the Guam Education Policy Board shall
13 include, unless prohibited by subsection (b) hereof, the following:

- 14 (1) establish curriculum goals and policy;
- 15 (2) establish student performance standards and a mechanism for
16 standardized assessment of each student based upon the adopted standards;
- 17 (3) establish policy for interscholastic sports;
- 18 (4) establish and approve a textbook list;
- 19 (5) establish student discipline policy;
- 20 (6) establish a school calendar;
- 21 (7) establish graduation standards;
- 22 (8) periodically review established policies for refinement and
23 improvement;
- 24 (9) serve as Guam’s State Education Policy/Governing Board for Federal
25 programs where such a board is required by Federal Law to include, but not be
26 limited to, the Head Start Program; the Guam Education Policy Board shall have
27 *no* involvement with federal programs that do not require a governing board
28 except that all federal grant applications must be presented to the board at least
29 fifteen (15) days prior to final transmittal to the federal government. In the event
30 of an emergency, the Board may reduce or waive said fifteen (15) day
31 presentation requirement;

1 (10) make recommendations to *I Maga'lahen Guåhan* and *I Liheslaturan*
2 *Guåhan* for changes, additions or deletions to public law;

3 (11) approve or revoke a school's decentralization status for purposes of
4 school-based management;

5 (12) act as the approving authority on behalf of the GPSS for collective
6 bargaining agreements;

7 (13) establish rates and fees necessary for programs, including, but not
8 limited to, the school lunch program;

9 (14) perform other duties and responsibilities as required by public law to
10 provide an adequate public educational system;

11 (15) The University of Guam shall adopt and implement a professional
12 training development program for the members of the Board. The Guam Public
13 School System (GPSS) shall pay the cost of the professional training and
14 development program from the appropriations made to the Guam Public School
15 System Operations Fund. This professional training and development program
16 shall be mandatory for Board members to complete within thirty (30) days of
17 taking office for the purpose of improving, expanding and refining their
18 individual and collective policy making skills. Some specific areas that will be
19 covered by such professional training and development program shall include but
20 *not* be limited to:

21 (A) Board Operations;

22 (B) Board Skills and Service;

23 (C) Review of the Guam Code Annotated and other laws
24 pertaining to GPSS;

25 (D) Roberts Rules of Order;

26 (E) Guam Public School System/government of Guam budgeting
27 procedures and guidelines; and

28 (F) Difference(s) between policy making and micromanagement of
29 the affairs of GPSS;

30 (G) Review of specific areas of existing Federal Programs where
31 the Board has purview.

1 (16) Privatization of GPSS services or operations must be authorized by
2 the Board and executed by:

3 (A) directing the Superintendent of Education to issue a Request
4 for Proposal (RFP) or an Invitation for Bid (IFB) for the privatization of
5 services within the Guam Public School System and implementing the
6 privatization of services within the budgeted allocation level approved by
7 the Board;

8 (B) the issuance of an RFP or an IFS and the award thereof shall be
9 in conformance with all applicable procurement laws and regulations of
10 Guam;

11 (C) the disposition of any employee of the GPSS, affected or
12 displaced by such action, shall follow all applicable laws and regulations
13 of Guam; and

14 (D) For all Guam Public School System privatized food services,
15 cafeterias, or cafeteria services, contractors operating GPSS cafeterias and
16 food services shall comply with 5 GCA §5001(e) and Chapter 68 of Title
17 5, Guam Code Annotated, relative to the procurement of local products, in
18 place and stead of the Guam Public School System. The Guam Public
19 School System shall require compliance with these provisions as part of its
20 contracts for privatization subsequent to the enactment of this Subsection;

21 (17) Review and approve by Board resolution the spending priorities as
22 outlined in the fiscal year budget for the GPSS DOE before submission to the
23 Guam Legislature as required in 17 GCA, Chapter 3, § 3121.

24 (18) Review and approve a fiscal year twelve month expenditure
25 operations plan based on the appropriation of local funds and expected funds from
26 other sources by September 15 for the next fiscal year consistent with
27 appropriations made to DOE by law for that fiscal year;

28 (19) Review and approve a fiscal year twelve month human resources
29 management plan by September 15 for the next fiscal year, inclusive of merit
30 increases, promotions and hiring that directly supports the plan outlined in
31 (18) of this section;

- 1 (b) The Board shall *not* collectively or individually:
2 (1) exert influence in the hiring, transfer, discipline or termination of any
3 employee of the GPSS, unless expressly authorized by public law;
4 (2) interfere in or micro-manage the affairs of the GPSS or schools within
5 the GPSS;
6 (3) involve itself with student discipline cases, unless expressly authorized
7 by public law, and only to the extent authorized by public law;
8 (4) involve itself in *operational* matters related to the *administration* of
9 federal funds and federal grants.

10 Any Board member shall report to *I Liheslaturan Guåhan* any potential or alleged
11 violation of this subsection (b).”

12 **Section 7. Effective Date.** This Act shall become effective upon enactment.

13 **Section 8. Severability.** If any provisions of this Act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect any other
15 provision or application of this Act which can be given effect without the invalid
16 provision or application, and to this end the provisions of this Act are severable.

GUAM LEGISLATURE
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T MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

506
10/13/09
9:05 AM

October 13, 2009,

MEMORANDUM

To: All Senators

RE: **PUBLIC HEARING NOTICE**

The Committee on Education has scheduled a public hearing for 9:00 a.m., Wednesday, October 21, 2009 in the Public Hearing Room of the Guam Legislature Building on the following:

Wednesday, October 21, 2009 – 9:00 a.m.

CONFIRMATION HEARING

Mr. James Allen Mason to serve as a member of the Guam Academy Charter Schools Council

BILLS

- **Bill No. B238-30 (COR) – v.c. pangelinan**

An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.

- **Bill No. B250-30 (COR) – Telo Taitague**

An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.

- **Bill No. B251-30 (COR) – J.T. Won Pat, Ed.D.**

An act to add Chapter 51 to Title 17 of the Guam Code Annotated, relative to the Physician Recruitment and Retention Education Debt Repayment Program.

Testimonies can be submitted in advance to the Office of Speaker Judith T. Won Pat, Ed.D. through email at mark@judiwonpat.com or through facsimile at 472-3589. Copies of the bills are available at www.guamlegislature.com

The Guam Legislature complies with provisions of the Americans with Disabilities Act (ADA). Individuals requiring special accommodations or services should contact Mr. Mark Duarte at 472-3586/87 or by email at mark@judiwonpat.com

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JUDITH T. WON PAT, Ed.D.

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BILLS

- Bill No. 8238-39 (COR) - v.v. pengeluan

An act to add a new section 1113 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.

- Bill No. 8258-39 (COR) - Telo Taitague

An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.

- Bill No. 8251 38 (COR) - JT. Won Pat, Ed.D.

An act to add Chapter 51 to Title 17 of the Guam Code Annotated, relative to the Physician Recruitment and Retention Education Debt Repayment Program.

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WS: Waiting send	MS: Mailbox save	FA: Fail	RP: Report	EC: Error Correct

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OFFICE OF THE SPEAKER
I MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

October 14, 2009

MEMORANDUM

To: All Senators

RE: **AMENDED PUBLIC HEARING NOTICE**

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Wednesday, October 21, 2009 - 9:00 a.m.

CONFIRMATION HEARING

• Mr. James Allen Mason to serve as a member of the Guam Academy Charter Schools Council
• Mr. William D. Leon Guerrero to serve as member of the University Of Guam (Board Of Regents)

BILLS

- **Bill No. R172-30 (COR) - B.J.F. Cruz** - An act to amend § 3207 (c); and to add a new § 3207 (c) to Chapter 3 of Title 17, Guam Code Annotated, relative to mandating school offerings of food containing trans fat to students.
- **Bill No. B216-30 (COR) - v.c. pangeman** - An act to add a new section 3123 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.
- **Bill No. B250-30 (COR) - Talo Taitague** - An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.
- **Bill No. B251-30 (COR) - J.T. Won Pat, Ed.D.** - An act to add Chapter 51 to Title 17 of the Guam Code Annotated relative to the Physician Recruitment and Retention Education Debt Repayment Program.

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155 HESLER PLACE, MAGAYNA, GUAM 96930 TEL: (671) 472-3586 FAX: (671) 472-3589
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Abbreviations:

HS: Host send
 HR: Host receive
 WS: Waiting send

PL: Polled local
 PR: Polled remote
 MS: Mailbox save

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TU: Terminated by user
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 RP: Report

G3: Group 3
 EC: Error Correct



OFFICE OF THE SPEAKER
I MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

October 14, 2009,

MEMORANDUM

To: Senators

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Wednesday, October 21, 2009 – 9:00 a.m.

CONFIRMATION HEARING

Mr. James Allen Mason to serve as a member of the Guam Academy Charter Schools Council

BILLS

- **Bill No. B172-30 (COR) – B.J.F. Cruz**

An act to amend § 3207 (c); and to add a new § 3207 (c) to Chapter 3 of Title 17, Guam Code Annotated; relative to mandating school offerings of food containing trans fat to students.

- **Bill No. B238-30 (COR) – v.c. pangelinan**

An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.

- **Bill No. B250-30 (COR) – Telo Taitague**

An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.

- **Bill No. B251-30 (COR) – J.T. Won Pat, Ed.D.**

An act to add Chapter 51 to Title 17 of the Guam Code Annotated, relative to the Physician Recruitment and Retention Education Debt Repayment Program.

Testimonies can be submitted in advance to the Office of Speaker Judith T. Won Pat, Ed.D. through email at mark@judiwonpat.com or through facsimile at 472-3589. Copies of the bills are available at www.guamlegislature.com. The Guam Legislature complies with provisions of the Americans with Disabilities Act (ADA). Individuals requiring special accommodations or services should contact Mr. Mark Duarte at 472-3586/87 or by email at mark@judiwonpat.com

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CONFIRMATION HEARINGS

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BILLS

- Bill No. B172-70 (COR) - R.J.F. Cruz

An act to amend § 2287 (c), and to add a new § 2287 (c) to Chapter 3 of Title 17, Guam Code Annotated, relative to mandating school offerings of food containing items fat to students.

- Bill No. B218-30 (COR) - v.c. pugmanson

An act to add a new section 3123 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission

- Bill No. H280-30 (COR) - Tola Tolague

An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physicians Education Incentive Program.

- Bill No. B251-30 (COR) - J.T. Won Pat, Ed.D.

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 with notes
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004	833	+6714773079	09:30:34 a.m. 10-14-2009	00:00:28	1/1	1	EC	HS	CP14400
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Broadcast Report

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**OFFICE OF THE SPEAKER
 I MINA'TRENTA NA LINESLATURAN GUAMAN | 30th GUAM LEGISLATURE
 JUDITH T. WON PAT, E.D.**

October 14, 2009.

MEMORANDUM

To: Speaker

RE: **AMENDED PUBLIC HEARING NOTICE**

The Committee on Education has scheduled a public hearing for 9:00 a.m., Wednesday, October 21, 2009 in the Public Hearing Room of the Guam Legislature regarding the following:

Wednesday, October 21, 2009 - 9:00 a.m.

CONFIRMATION HEARING

Mr. James Allen Mason to serve as a member of the Guam Academy Charter Schools Council

BILLS

- RR No. B172-20 (COR) - B.J.F. Cruz

An act to amend § 3707 (c), and to add a new § 3207 (c) to Chapter 7 of Title 17, Guam Code Annotated, relative to mandating school offerings of food consisting of nuts to students.

- RR No. B239-10 (COR) - v.a. panglossan

An act to add a new section 3333 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.

- RR No. B269-09 (COR) - Yelo Tostiggo

An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.

- RR No. B251-10 (COR) - J.T. Who Pat, E.D.

An act to add Chapter 51 to Title 17 of the Guam Code Annotated, relative to the Physician Recruitment and Retention Education Debt Repayment Program.

Testimony can be submitted in advance to the Office of Speaker Judith T. Won Pat, E.D. through email at judith@guamlegis.gov or through facsimile at 472-1089. Copies of the bills are available at www.guamlegis.gov. The Guam Legislature complies with provisions of the Americans with Disabilities Act (ADA). Individuals requiring special accommodations or services should contact Mr. Mark Quaresima at 472-1586/87 or by email at mark@guamlegis.gov.

cc: Executive Director
 Principal Legislative Clerk
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WS: Waiting send	MS: Mailbox save	FA: Fail	G3: Group 3
			EC: Error Correct



OFFICE OF THE SPEAKER
I MINA'TRENTA NA LIHESLATURAN GUAHAN | 30th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D.

October 14, 2009

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- Mr. James Allen Mason to serve as a member of the Guam Academy Charter Schools Council
- Mr. William D. Leon Guerrero to serve as member of the University Of Guam Board Of Regents

BILLS

- **Bill No. B172-30 (COR) - B.J.F. Cruz** - An act to amend § 3207 (c); and to add a new § 3207 (c) to Chapter 3 of Title 17, Guam Code Annotated; relative to mandating school offerings of food containing trans fat to students.
- **Bill No. B238-30 (COR) - v.c. pangelinan** - An act to add a new section 3133 of 17 GCA, Chapter 3 relative to the creation of the Department of Education Financial Supervisory Commission.
- **Bill No. B250-30 (COR) - Telo Taitague** - An act to repeal and re-enact Chapter 47 of 17 GCA relative to creating the Physician Education Incentive Program.
- **Bill No. B251-30 (COR) - J.T. Won Pat, Ed.D.** - An act to add Chapter 51 to Title 17 of the Guam Code Annotated, relative to the Physician Recruitment and Retention Education Debt Repayment Program.

Testimonies can be submitted in advance to the Office of Speaker Judith T. Won Pat, Ed.D. through email at mark@judiwonpat.com or through facsimile at 472-3589. Copies of the bills are available at www.guamlegislature.com The Guam Legislature complies with provisions of the Americans with Disabilities Act (ADA). Individuals requiring special accommodations or services should contact Mr. Mark Duarte at 472-3586/87 or by email at mark@judiwonpat.com

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G3: Group 3
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09:10:49 a.m.

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cc: Executive Director
President
Legislative Clerk
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WS: Waiting send	MS: Mailbox save	FA: Fail	RP: Report	EC: Error Correct

6

I MINA' TRENTA NA LIHESLATURAN GUÅHAN

2010 (SECOND) Regular Session

Date: 7/2/10

VOTING SHEET

Bill No. 238-30(COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
AGUON, Frank B., Jr.	✓				
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.	✓				
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

15

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) REGULAR SESSION

Bill No. 238-30(COR)

Introduced by:

v.c. pangelinan


2009 OCT -1 PM 2:51 ME

AN ACT TO ADD A NEW SECTION 3133 OF 17
GCA, CHAPTER 3 RELATIVE TO THE CREATION
OF THE DEPARTMENT OF EDUCATION
FINANCIAL SUPERVISORY COMMISSION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
2 the Guam Department of Education (GDOE) is allocated approximately one-third of the
3 annual government of Guam budget. The GDOE has experienced adversity at the highest
4 level of leadership due to high turnover rates of key positions such as the Superintendent
5 and Deputy Superintendent of Finance. Such adversity has contributed to recent fiscal
6 mismanagement resulting in the closure of public schools and in certain instances, caused
7 adverse impact on the continuity, efficiency and effectiveness of delivering the highest
8 quality of instructional services for Guam's public school students.

9 *I' Liheslaturan Guhan* further finds that to ensure public school children of Guam
10 are afforded their educational entitlement without adverse delays due to financial or
11 administrative negligence, it is necessary to create the Guam Department of Education
12 Financial Supervisory Commission (EFSC) as an independent body to assist the GDOE
13 and Guam Education Policy Board (GEPB) with the task of monitoring and managing all
14 public education financial resources.

15 The EFSC's primary role is to monitor the financial health of the GDOE by
16 developing and supervising a financial status designation of GDOE finances. The main
17 purpose of EFSC is to identify in advance any signs of financial distress that may put the

1 It is also imperative that the interaction of the federal and local programs be
2 compatible to deliver the mandates of the “Every Child Is Entitled to an Adequate
3 Education Act”. Federal grants must be reviewed, accepted, and utilized by the GDOE
4 as a means to accomplish this goal.

5 *I Liheslaturan Guahan* further finds that the EFSC is in a position to effectively
6 review the various federal programs of which GDOE is currently participating and make
7 recommendations to both the Superintendent of Education and the GEPB on financial
8 integration and administration of both funding sources into a twelve month expenditure
9 operations plan.

10 In an effort to establish and maintain a culture of financial leadership and
11 financial stability in the island’s only public educational system, it is the intent of *I*
12 *Liheslaturan Guahan* to remove the constant threat of school closures, restore public
13 confidence in the system, provide technical assistance and any other financial supervisory
14 assistance helpful to the GDOE through the passage of this Act.

15 It is further the intent of *I Liheslaturan Guahan* to finally lift the “high risk
16 grantee” designation which had been placed on GDOE since September, 2003. In order
17 to achieve this, the Superintendent of Education and the GEPB must avail themselves of
18 the management and financial experience offered by the members of EFSC.

19 **Section 2. A new Section 3133 of 17 GCA, Chapter 3 is hereby added to**
20 **read:**

21 “§ 3133. Establishment and Composition Guam Department of Education
22 Financial Supervisory Commission.

23 a). The Guam Department of Education Financial Supervisory Commission
24 (EFSC) shall consist of five (5) regular voting members and one (1) alternate member
25 who shall be allowed to cast a vote only in the event a regular voting member is absent.
26 The EFSC shall be comprised of the following members:

- 27 1) The Director of the Department of Administration or designated
28 representative who shall be member of the Senior Management Staff;
- 29 2) The Director of the Bureau of Budget, Management and Research
30 or designated representative who shall be member of the Senior
31 Management Staff;

- 1 3) The Director of the Office of Finance and Budget or designated
2 representative;
- 3 4) The Public Auditor or designated representative;
- 4 5) A parent of a child currently enrolled in a public school appointed
5 by the Chairperson of the Committee on Education of the Guam
6 Legislature with at least five (5) years experience in the public or private
7 sector in the management of business or financial expertise, public
8 accounting, or similar professional activity;
- 9 6) General Accounting Supervisor of the Department of
10 Administration (Alternate);
- 11 7) The Superintendent of Education shall serve as the Executive
12 Secretary of the EFSC in an exofficio, nonvoting capacity;
- 13 8) The Deputy Superintendent of Finance of GDOE shall serve as an
14 exofficio member in a nonvoting capacity.

15 b). EFSC Structure

- 16 1) The Director of the Bureau of Budget and Management
17 Research shall serve as Chairperson for the EFSC;
- 18 2) The Director of the Office of Finance and Budget shall
19 serve as the Vice Chairperson;
- 20 3) The EFSC shall meet at least once per month using a
21 generally accepted set of parliamentary procedures to
22 govern meetings;
- 23 4) Three members (3) shall constitute a quorum for the
24 transaction of any EFSC business. In the absence of a
25 quorum, all meetings shall be cancelled and rescheduled
26 within three (3) working days of the cancelled meeting;
- 27 5) Failure of the EFSC to meet in any month shall result in a
28 Two-Hundred and Fifty Dollar (\$250.00) fine for each
29 member, which shall be deposited into the GDOE
30 Interscholastic Sports Program.

1 **Section 3. EFSC Scope of Authority, Duties and Responsibilities**

2 **Granted.** The scope of authority, duties, and responsibilities granted in this section shall
3 be for the purpose of organizing and assembling government of Guam resources to:

- 4 a) Make recommendations on policies and practices related to the presentation
5 and preparation of the operating budget request;
- 6 b) Make recommendations on budget request priorities;
- 7 c) Review and approve a fiscal year twelve month expenditure operations plan
8 based on the appropriation of local funds and expected funds from other
9 sources by September 25 for the next fiscal year;
- 10 d) Review and approve a fiscal year twelve month human resources management
11 plan by September 25 for the next fiscal year, inclusive of merit increases,
12 promotions and hiring that directly supports the plan outlined in (c) of this
13 section;
- 14 e) Review GDOE internal hiring policies, procedures and controls and make
15 recommendations to the Superintendent of Education;
- 16 f) Develop financial performance indicators that produce a monthly financial
17 status designation as outlined in Section 4 of this Act;
- 18 g) Review GDOE financial reports for conformity with annual budget objectives;
- 19 h) Monitor expenditures that materially exceed (or will exceed on an annualized
20 basis) the approved budget amount for any given expense category;
- 21 i) Review and approve all contracts/expenditures in excess of One Million
22 Dollars (\$1,000,000) prior to issuance of purchase orders and bid awards to
23 verify fund expenditures conform to the plan outlined in (c) of this section;
- 24 j) Monitor all contracts and renewal dates for food service, school maintenance,
25 office reproduction equipment, solid waste disposal and telecommunication;
- 26 k) Develop a needs assessment of the GDOE accounting department and
27 recommend a training plan to the Superintendent of Education;
- 28 l) Review GDOE internal accounting procedures and controls and make
29 recommendations to the Superintendent of Education;

1 m) Review all information technology purchases and upgrades related to the
2 financial management of GDOE and provide recommendations to the
3 Superintendent of Education.

4 **Section 4. Financial Status Designations.**

- 5 a) **CODE “A”** means *Stable* indicating that the GDOE has positive variance
6 reports in all budgeted expense categories at the time of reporting;
- 7 b) **CODE “B”** means *Warning* indicating that the GDOE has a negative
8 variance report exceeding ten percent (10%) of the year-to-date budgeted
9 amount in an expense category or five percent (5%) in aggregate at the time
10 of reporting;
- 11 c) **CODE “C”** means *Watch* indicating that the GDOE has a negative variance
12 report exceeding two percent (2%) of the approved budget amount when
13 combining year-to-date actual and annualized projections at the time of
14 reporting;
- 15 d) **CODE “RED”** indicating *Emergency* whereby there is a failure to
16 implement a corrective financial recovery plan within fifteen (15) working
17 days of submission to EFSC as outlined in Section 5(c) of this Act. An
18 emergency may also be declared by a unanimous vote of all EFSC members
19 should the GDOE and GEPB fail to submit a corrective financial recovery
20 plan that is acceptable to address conditions which caused the financial status
21 *watch* designation.

22 **Section 5. Financial Status Designations Actions**

- 23 a) **CODE A-*Stable***. No action required;
- 24 b) **CODE B-*Warning***. Superintendent of Education in conjunction with the
25 Deputy Superintendent of Finance *shall* submit an explanation of variance
26 within five (5) working days of an EFSC *Warning* to the GEPB and EFSC
27 that explains each expenditure category above the approved budget amount
28 as outlined in Section 3(c) of this act;
- 29 c) **CODE C-*Watch***. Superintendent of Education in conjunction with the
30 Deputy Superintendent of Finance *shall* submit a corrective financial
31 recovery plan to eliminate watch conditions within twenty (20) working days

1 of an EFSC issued *Watch* to the GEPB. The GEPB *shall* review, modify and
2 approve by resolution the corrective financial recovery plan and submit it to
3 EFSC within fifteen (15) working days of receipt from the Superintendent of
4 Education;

- 5 d) *CODE RED-Emergency.* Under an emergency declaration, EFSC may
6 assume all or part of the decision making powers of the Superintendent of
7 Education and the GEPB until a corrective financial recovery plan is
8 developed, implemented and successful in alleviating the conditions which
9 caused the financial status *watch* designation.”

10 **Section 6. 17 GCA § 3112. "Same: Duties and Responsibilities", is**
11 **hereby amended to read:**

12 “(a) The duties and responsibilities of the Guam Education Policy Board shall
13 include, unless prohibited by subsection (b) hereof, the following:

- 14 (1) establish curriculum goals and policy;
- 15 (2) establish student performance standards and a mechanism for
16 standardized assessment of each student based upon the adopted standards;
- 17 (3) establish policy for interscholastic sports;
- 18 (4) establish and approve a textbook list;
- 19 (5) establish student discipline policy;
- 20 (6) establish a school calendar;
- 21 (7) establish graduation standards;
- 22 (8) periodically review established policies for refinement and
23 improvement;
- 24 (9) serve as Guam’s State Education Policy/Governing Board for Federal
25 programs where such a board is required by Federal Law to include, but not be
26 limited to, the Head Start Program; the Guam Education Policy Board shall have
27 *no* involvement with federal programs that do not require a governing board
28 except that all federal grant applications must be presented to the board at least
29 fifteen (15) days prior to final transmittal to the federal government. In the event
30 of an emergency, the Board may reduce or waive said fifteen (15) day
31 presentation requirement;

1 (10) make recommendations to *I Maga'lahaen Guåhan* and *I Liheslaturan*
2 *Guåhan* for changes, additions or deletions to public law;

3 (11) approve or revoke a school's decentralization status for purposes of
4 school-based management;

5 (12) act as the approving authority on behalf of the GPSS for collective
6 bargaining agreements;

7 (13) establish rates and fees necessary for programs, including, but not
8 limited to, the school lunch program;

9 (14) perform other duties and responsibilities as required by public law to
10 provide an adequate public educational system;

11 (15) The University of Guam shall adopt and implement a professional
12 training development program for the members of the Board. The Guam Public
13 School System (GPSS) shall pay the cost of the professional training and
14 development program from the appropriations made to the Guam Public School
15 System Operations Fund. This professional training and development program
16 shall be mandatory for Board members to complete within thirty (30) days of
17 taking office for the purpose of improving, expanding and refining their
18 individual and collective policy making skills. Some specific areas that will be
19 covered by such professional training and development program shall include but
20 *not* be limited to:

21 (A) Board Operations;

22 (B) Board Skills and Service;

23 (C) Review of the Guam Code Annotated and other laws
24 pertaining to GPSS;

25 (D) Roberts Rules of Order;

26 (E) Guam Public School System/government of Guam budgeting
27 procedures and guidelines; and

28 (F) Difference(s) between policy making and micromanagement of
29 the affairs of GPSS;

30 (G) Review of specific areas of existing Federal Programs where
31 the Board has purview.

1 (16) Privatization of GPSS services or operations must be authorized by
2 the Board and executed by:

3 (A) directing the Superintendent of Education to issue a Request
4 for Proposal (RFP) or an Invitation for Bid (IFB) for the privatization of
5 services within the Guam Public School System and implementing the
6 privatization of services within the budgeted allocation level approved by
7 the Board;

8 (B) the issuance of an RFP or an IFS and the award thereof shall be
9 in conformance with all applicable procurement laws and regulations of
10 Guam;

11 (C) the disposition of any employee of the GPSS, affected or
12 displaced by such action, shall follow all applicable laws and regulations
13 of Guam; and

14 (D) For all Guam Public School System privatized food services,
15 cafeterias, or cafeteria services, contractors operating GPSS cafeterias and
16 food services shall comply with 5 GCA §5001(e) and Chapter 68 of Title
17 5, Guam Code Annotated, relative to the procurement of local products, in
18 place and stead of the Guam Public School System. The Guam Public
19 School System shall require compliance with these provisions as part of its
20 contracts for privatization subsequent to the enactment of this Subsection;

21 (17) Review and approve by Board resolution the spending priorities as
22 outlined in the fiscal year budget for the GPSS DOE before submission to the
23 Guam Legislature as required in 17 GCA, Chapter 3, § 3121.

24 (18) Review and approve a fiscal year twelve month expenditure
25 operations plan based on the appropriation of local funds and expected funds from
26 other sources by September 15 for the next fiscal year consistent with
27 appropriations made to DOE by law for that fiscal year;

28 (19) Review and approve a fiscal year twelve month human resources
29 management plan by September 15 for the next fiscal year, inclusive of merit
30 increases, promotions and hiring that directly supports the plan outlined in

31 (18) of this section;

1 (b) The Board shall *not* collectively or individually:

2 (1) exert influence in the hiring, transfer, discipline or termination of any
3 employee of the GPSS, unless expressly authorized by public law;

4 (2) interfere in or micro-manage the affairs of the GPSS or schools within
5 the GPSS;

6 (3) involve itself with student discipline cases, unless expressly authorized
7 by public law, and only to the extent authorized by public law;

8 (4) involve itself in *operational* matters related to the *administration* of
9 federal funds and federal grants.

10 Any Board member shall report to *I Liheslaturan Guåhan* any potential or alleged
11 violation of this subsection (b).”

12 **Section 7. Effective Date.** This Act shall become effective upon enactment.

13 **Section 8. Severability.** If any provisions of this Act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect any other
15 provision or application of this Act which can be given effect without the invalid
16 provision or application, and to this end the provisions of this Act are severable.